

4213. Misbranding of "Kopp's Baby's Friend." U. S. * * * v. 324 Bottles * * * 864 Bottles * * * and 840 Bottles * * * "Kopp's Baby's Friend." Default decree of condemnation, forfeiture, and destruction. (F. & D. Nos. 6480, 6481, 6482. I. S. No. 14545-k. S. No. C-193.)

On April 28, 1915, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district three libels for the seizure and condemnation of 324 bottles, 864 bottles, and 840 bottles, respectively, of a certain drug product designated as "Kopp's Baby's Friend," remaining unsold in the original unbroken packages at Chicago, Ill., alleging that the product had been shipped, on January 9, January 20, and April 1, 1915, and transported from the State of Pennsylvania into the State of Illinois, and charging misbranding in violation of the Food and Drugs Act, as amended.

Misbranding of the article was alleged in the libels for the reasons that the cartons containing the bottles each bore statements in words and figures, as follows, to wit, "Kopp's 'Baby's Friend' Contains about Eight and One-half Per Cent. Alcohol (by volume); One-Eighth Grain Sulphate of Morphine in Each Fluid Ounce, Besides Other Medicinal Ingredients. The Kopp's Baby's Friend Co. Successors to Mrs. J. A. Kopp York, Pa., U. S. A. For Wind Colic, Griping in the Bowels, Diarrhoea, Cholera Infantum and Teething Troubles. Directions inside. Notice.—Kopp's Baby's Friend is put up in three sizes; i. e., Small or Trial Size, 10 cents; Medium Size, 25 cents; Large or Nursery Size, 50 Cents. A 25 cent bottle contains nearly as much as three 10 cent bottles; a 50 cent bottle contains nearly as much as three 25 cent bottles or nine ten cent bottles, and is therefore the most economical. Trade-Mark Registered," which said statements, borne upon each of the cartons aforesaid, were false and misleading in that the statements represented to the purchaser that the drug product aforesaid was a remedy or cure for wind colic, griping in the bowels, diarrhea, cholera infantum, and teething troubles, whereas, in truth and in fact, the drug product aforesaid was not a remedy or cure for wind colic, griping in the bowels, diarrhea, cholera infantum, and teething troubles, and contained no ingredient nor combination of ingredients capable of producing [the] effects claimed therefor. Misbranding was alleged for the further reason that said statements were false and misleading in that they represented to the purchaser that the drug product aforesaid was a "baby's friend" and beneficial and effective for the relief of wind colic, griping in the bowels, diarrhea, cholera infantum, and teething troubles, whereas, in truth and in fact, the drug product aforesaid was not a "baby's friend," nor was it a safe remedy, beneficial and effective for the relief of wind colic, griping in the bowels, diarrhea, cholera infantum, and teething troubles. Misbranding was alleged for the further reason that said statements regarding the curative effect of said drug product were false and fraudulent in that the drug product aforesaid contained no ingredient nor combination of ingredients capable of producing the effects claimed therefor in the said statements appearing on each of said cartons. Misbranding was alleged for the further reason that said statements regarding the therapeutic effect of said drug product were false and fraudulent in that the drug product aforesaid contained no ingredient nor combination of ingredients capable of producing the effects claimed therefor in the said statements appearing upon each of the said cartons.

On June 10, 1915, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered in the cases, and it was ordered by the court that the product should be destroyed by the United States marshal.

C. F. MARVIN, *Acting Secretary of Agriculture.*